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Statutes of the Hawaiian Kingdom  
Relating to Apprentices. 1882

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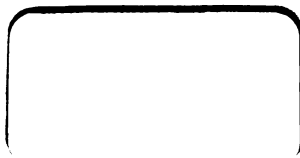
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# Statutes of the Hawaiian Kingdom

RELATING TO

## APPRENTICES CONTRACT

LABORERS,

WITH A SYNOPSIS OF RULINGS AND DECISIONS  
OF THE SUPREME COURT THEREON.

PREPARED BY

HON. LAWRENCE McCULLY,

Justice of the Supreme Court.



HONOLULU :

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# CIVIL CODE.

(ENACTED IN 1859.)

## CHAPTER XXX.

### OF MASTERS AND SERVANTS.

NOTE.—Chapter XXX of the Civil Code, is a re-enactment of the Act of June 21st, 1850, “For the Government of Masters and Servants.”

SECTION 1396. There are two kinds of servants in this Kingdom, viz :

1. Apprentices, that is, those engaged to serve any one in order to learn some art, trade, profession, or other employment.

2. Those who engage to serve by the day, week, month, year, or other fixed time, in consideration of certain wages.

#### (1)—*Of Apprentices.*

SECTION 1397. All minors above the age of ten years, may be bound as apprentices or servants, if females, to the age of eighteen years, or to the time of their marriage within that age; and if males, to the age of twenty years, in the manner following :

1. By the father of such minor; or, if he be dead, or be incompetent so to do from lunacy, idiocy, habitual drunkenness, or other cause, or if he shall have abandoned and neglected to provide for his family, then,

2. By the mother; if the mother be dead, or incompetent, or if she refuse, then,

3. By the Guardian of such minor, duly appointed. If such minor have no parent living, or none competent to bind or apprentice him, or her, and there be no guardian, then,

4. By the Governor of the island in which such minor shall reside.

SECTION 1398. No minor shall be bound as aforesaid, unless by a contract of two parts, signed and delivered by both parties; and one part shall be kept for the use of the minor, by his father, mother, Guardian or the Governor.

SECTION 1399. Every contract for the binding out of any minor as aforesaid, shall contain an agreement on the part of the person to whom such minor shall be bound, that he will cause such minor to be instructed to read and write, and if a male, will cause him to be further instructed in the general rules of arithmetic.

SECTION 1400. The age of every minor shall be inserted in the contract, and shall be taken to be the true age, without further proof thereof.

SECTION 1401. All considerations of money or other things, paid or allowed by the master, upon any contract of apprenticeship, made in pursuance of the foregoing provisions of this Chapter, shall be paid or secured to the sole use of the minor thereby bound.

SECTION 1402. Parents, Guardians, and the Governors of the respective islands, shall inquire into the treatment of minors bound by them respectively, and of all who shall have been bound by their predecessors in office, and defend them from all cruelty, neglect, misusage, or breach of contract, on the part of their master.

SECTION 1403. If any master shall be guilty of any cruelty, misusage, or violation of the terms of the contract, towards any minor so bound, a complaint may be made by the father, mother, Guardian, Governor, or minor, to any Circuit Judge or District Justice, of the island in which said master shall reside, who shall have all the requisite powers for hearing and determining such complaint.

SECTION 1404. After a full hearing of the parties, or of the complainant, if the master shall neglect to appear after being duly notified, the magistrate in case the complaint is sustained, may render a judgment that the minor be discharged from his apprenticeship, and for the costs of the suit against the master, and may issue execution accordingly.

SECTION 1405. If it shall appear that the complaint was made without any just or reasonable cause, the magistrate may award costs for the master against the complainant, and issue execution accordingly.

SECTION 1406. Every master shall moreover be liable, whether such complaint be filed or not, to an action on the contract, for the breach of any covenant on his part therein contained, and all damages recovered in such action shall be the property of the minor.

SECTION 1407. Such action may be brought either by the parent, Guardian or Governor, or their Successors in the trust of the minor, or by the minor himself after the expiration of the term of apprenticeship or service.

SECTION 1408. No such action shall be maintained unless it be commenced during the term of apprenticeship or service, or within two years after the expiration thereof.

SECTION 1409. If judgment in such action, brought during the term of service or apprenticeship, shall be rendered in



favor of the plaintiff, the magistrate may, upon motion of the plaintiff, discharge the minor from his apprenticeship or service.

SECTION 1410. If any apprentice or servant bound as aforesaid shall, without just cause, depart from the service of his master, any District or Police Justice of the Kingdom, upon complaint made under oath by the master, or by any one on his behalf, may issue a warrant to apprehend the apprentice or servant and bring him before the said Justice; and if the complaint shall be supported, the Justice shall order the offender to be restored to his master, and he shall be compelled to serve double the time of his absence, unless he shall make satisfaction for the loss and injury sustained by such absence; provided, however, that such additional term of service shall not extend beyond one year, next after the end of the original term of service.

SECTION 1411. The Justice's warrant, when directed to any officer or other person by name, shall authorize him to convey the offender to the place of residence of the master, although it may be on any other island in the Kingdom.

SECTION 1412. All the costs incurred in any such process against a servant or apprentice, shall be paid, in the first instance by the complainant, and if the complaint shall be supported, the master may recover the amount of such costs in an action against the minor, after he shall arrive at full age.

SECTION 1413. If any such apprentice or servant shall be guilty of any gross misbehavior, or refusal to do his duty, or willful neglect thereof, his master may make complaint thereof to any Circuit Judge, Police or District Justice of the island in which said master shall reside, who shall have all the requisite powers for hearing and determining such complaint.

SECTION 1414. After a full hearing of the parties, or of the complainant alone, if the adverse party neglect to appear after being duly notified, the Magistrate, in case the complaint is sustained, may render a judgment that the master be discharged from the contract of apprenticeship or service, and for the costs of the suit; such costs to be recovered of the parent or Guardian of the minor, if there be one, who executed the contract, and execution therefor may be issued accordingly; and if there be no parent or Guardian liable for such costs, the amount thereof may be recovered in an action against the minor, after he shall have arrived at full age.

SECTION 1415. No contract of apprenticeship or service, made in pursuance of the foregoing provisions of this Chapter, shall bind the minor after the death of his master, but the apprentice or servant shall be thenceforth discharged, and the minor may be bound out anew.

SECTION 1416. Any contract of apprenticeship or service, made in pursuance of the foregoing provisions of this Chapter, on behalf of a minor, may be made either with a woman or a man, and all the foregoing provisions shall apply as well to mistresses as to masters.

## (2)—*Of Contract Labor.*

NOTE.—The following statutes here inserted between Sections 1416 and 1417, amend or qualify portions of this Chapter.

### TO REGULATE CONTRACTS BETWEEN MASTERS AND SERVANTS. ACT 1868

SECTION 1. All contracts for service between masters and servants where only one of the parties is a native Hawaiian shall be written or printed in both the Hawaiian and English languages. No such contract shall have any effect in law when executed in one language only, provided that nothing

As Amended  
1890  
Chapter XX.

herein contained shall be held or construed to prevent any such contracts being written or printed in the Hawaiian language only, where both parties thereto are native Hawaiians.

SECTION 2. The Minister of the Interior is hereby authorized to prepare, in both languages, printed forms of contract, as provided for in the foregoing section, in blank, as to place, time of service, wages, name, place where engaged, and place of residence.

**ACT FOR THE PROTECTION OF PARTIES TO CONTRACTS AUTHORIZED BY**  
1872  
**SECTION 1417 OF THE CIVIL CODE.**  
Chapter VI

As Amended  
 1876  
 Chapter XLVI.

SECTION 1. Every contract for service authorized by Section 1417 of the Civil Code, shall, in order to its validity, be acknowledged by the master or his duly empowered agent, and the servant, before the agent to take acknowledgments of contracts, as hereinafter provided, and the certificate of acknowledgment shall be substantially as follows :

Island of..... }  
 Hawaiian Islands, } ss.

On this.....day of.....A. D.....personally appeared before me.....master, and.....servant, known to me (or satisfactorily proved to me by the oath of A. B.), to be the persons executing the above contract, and the same having been by me read and explained to them, they severally acknowledged that they understood the same and that they had executed the same voluntarily and upon the terms and conditions therein set forth.

As Amended  
 1880  
 Chapter XL.

SECTION 2. In order to carry out the provisions of this Act, the Minister of the Interior is hereby authorized to appoint an agent or agents in each elective district of this Kingdom, who shall have the power to take acknowledgments to the contracts authorized by Section 1417 of the

Civil Code; *provided, however*, that such agents shall be authorized to appoint a deputy during their temporary absence from their districts, and the deputy so appointed shall be empowered to perform all the duties of the said agents as prescribed by this Act; and provided further that nothing herein contained, shall authorize the appointment of any judge or his deputy, or any store-keeper to such agency.

TO FURTHER DEFINE THE NATURE AND OBLIGATIONS OF THE ACT  
 CONTRACTS AUTHORIZED BY SECTIONS 1417 AND 1418 OF THE <sup>1872</sup>Chapter XXXI.  
 CIVIL CODE.

*Whereas*, the law in relation to masters and servants has been misunderstood in some of its provisions and is wrongly interpreted by many persons; *and*

*Whereas*, some legislation is necessary in order to prevent such misunderstandings in future and to further define the nature and obligations of the Contracts authorized by Sections 1417 and 1418 of the Civil Code; *therefore*,

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled.*

SECTION 1. No contract of a married woman to serve another shall be valid in law, unless separated from her husband by decree of a court of competent jurisdiction; and in case any woman shall contract marriage while under contract to serve another, the marriage shall operate to annul said contract of service.

SECTION 2. In all cases when any person under contract to serve another, shall be sentenced by any court to make to his master satisfaction for loss of time by desertion, by working a period of time beyond that contracted for, he shall be

paid his wages for such extra time worked at the rate stipulated for in the contract.

SECTION 3. No person bound by contract to serve another shall be held or compelled to work for any period of time beyond the date when the contract shall by its terms expire, in liquidation of any debt or advance made to said laborer during the term agreed for at the time of his engagement, and any clause introduced into the contract which shall contemplate any such service for any such advances shall be held utterly void and of no effect.

**ACT** <sup>1876</sup> **TO PROVIDE FOR THE NUMBER OF HOURS TO CONSTITUTE A DAY'S**  
Chapter XLVII **LABOR WHERE NOT SPECIFIED BY CONTRACT.**

In all contracts for service under Section 1417 of the Civil Code, where the number of hours constituting a day's labor shall not be specified, the length of a day's labor shall be held not to exceed nine hours; for all labor in excess of such time the laborers shall be entitled to compensation at not less than the rate of wages agreed upon in the contract.

**EXTRACT FROM ACT RELATING TO STAMP DUTIES, 1876,**  
**CHAPTER LV.**

Stamps are required on contracts between masters and  
servants for labor.....\$ 1.00  
If for more than one year, then for each year or part  
of a year after the first ..... 1.00  
(This duty to be charged on each copy and to be paid  
by the employer.)

**ACT** <sup>1878</sup> **RELEASING ALL PERSONS SERVING UNDER CONTRACTS ON GOV-**  
Chapter VII **ERNMENT HOLIDAYS, AND ON THE DAY OF ELECTION FOR**  
**REPRESENTATIVES.**

*Whereas*, it is proper that the whole nation should observe all Government holidays; *and*

*Whereas, it is almost impossible for parties serving under contracts to vote for the Representative they really desire, owing to their being kept at work on the day of election for Representatives; therefore,*

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled.*

SECTION 1. All persons now serving under contracts, or may hereafter serve under contracts, shall, from and after the passage of this Act, be released from labor on all Government holidays gazetted by the Minister of the Interior, and on the days of election for Representatives; nor shall they be detained or made to work on any of such days.

SECTION 2. This Act shall become a law from and after the date of its passage; and all laws and parts of laws conflicting with the provisions of this Act are hereby repealed.

CIVIL CODE—SECTION 1417. Any person who has attained the age of twenty years, may bind himself or herself, by written contract, to serve another in any art, trade, profession or other employment, for any term not exceeding five years.

SECTION 1418. All engagements of service contracted in a foreign country, to be executed in this, unless the same be in contravention of the laws of this, shall be binding here: provided, however, that all such engagements made for a longer period than ten years, shall be reduced to that limit, to count from the day of the arrival of the person bound, in this Kingdom.

SECTION 1419. If any person lawfully bound to service, shall willfully absent himself from such service, without the leave of his master, any District or Police Justice of the King-

dom, upon complaint made, under oath, by the master, or by any one on his behalf, may issue a warrant to apprehend such person and bring him before the said Justice; and if the complaint shall be maintained, the Justice shall order such offender to be restored to his master, and he shall be compelled to serve not to exceed double the time of his absence, in the discretion of the court, unless he shall make satisfaction to the master for the loss and injury sustained by such absence: provided, always, that such additional term of service shall not extend beyond one year, next after the end of the original term of service.

SECTION 1420. If any such person shall refuse to serve according to the provisions of the last section, or the terms of his contract, his master may apply to any District or Police Justice, where he may reside, who shall be authorized by warrant, or otherwise, to send for the person so refusing, and if such refusal be persisted in, to commit such person to prison, there to remain, at hard labor, until he will consent to serve according to law.

Section 1420,  
amended in  
1860, and further  
amended in  
1876 and in 1880  
by this addition

And in case such person so bound as aforesaid shall have returned to the service of such master in and obedience to such order of such Justice, and shall again willfully absent himself from such service without the leave of his master, such District or Police Justice may fine such offender not exceeding Five Dollars for the first offense, and for every subsequent offence thereafter not exceeding Ten Dollars, and in default of payment thereof such offender shall be imprisoned at hard labor until such fine is paid; and at the expiration of such imprisonment, such Justice shall order such offender to be restored to his master to serve for the remainder of such original term of service.

SECTION 1421. The Justice's warrant or order, mentioned in Section 1419, when directed to any officer or other person

by name, shall authorize him to convey the offender to the place of residence of the master, although it may be in some other island of the Kingdom.

SECTION 1422. All the costs incurred in any process against a servant, under either the 1419th or 1420th Sections, shall be paid in the first instance by the complainant, and if the complaint shall be sustained, the master shall have judgment and execution therefor against the offending servant.

SECTION 1423. If any master shall be guilty of any cruelty, <sup>As Amended</sup> misuse, or violation of any of the terms of the contract, <sup>1872</sup> towards any person bound to service either under the 1417th or <sup>Chapter XXIV</sup> 1418th Sections, such person may make complaint to any District or Police Justice, who shall summon the parties before him, examine into, hear and determine the complaint, and in all such examinations the complainant shall be a competent witness; and if the complaint shall be sustained, such person shall be discharged from all obligations of service, and the master shall be fined in a sum not less than five, nor more than one hundred dollars, and in default of the payment thereof, be imprisoned at hard labor until the same is paid.

SECTION 1424. No contract of service made in pursuance of the 1417th or 1418th Sections of this chapter, shall bind the servant after the death of his master: provided, however, that where servants shall be so bound by any company of individuals, the death of any one partner, or the change of partners, in such company, shall not operate to release such servant from the terms of his contract.

SECTION 1425. Nothing in this chapter contained shall be construed to destroy the right of civil action for damages, by the master or servant, for breach of contract.



ACT  
1880  
Chapter III.

TO PROVIDE FOR THE SANITARY CONDITION OF DWELLING HOUSES.

*Whereas, on account of the over-crowding of persons in certain localities, it is expedient to provide for the sanitary condition of dwelling-houses and their surroundings, therefore,*

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled.*

SECTION 1. Every house or tenement used or occupied as a dwelling for lodgers or contract laborers shall be kept by its owner in good repair, with the roof water-tight, and shall have the capacity of not less than three hundred cubic feet of space for each adult, or nine hundred cubic feet for one man and woman and two children.

SECTION 2. The yard and grounds about all dwellings shall be well drained and kept free from rubbish of every description, with a closet or privy, also to be kept in repair by the lodging-house keeper or employer of laborers, for every six adults.

SECTION 3. Every owner or keeper and every other person having the care or management of a lodging-house or of a dwelling for contract laborers, shall at all times when required by the Board of Health or its agents give free access to such house or any part thereof.

SECTION 4. Every lodging-house keeper or employer of laborers who shall fail to comply with the provisions of this Act shall pay a fine not exceeding Fifty Dollars.

SECTION 5. Every person who shall keep his dwelling in so filthy a state as to be a nuisance or injurious to health, or who shall refuse or neglect to remove any nuisance or substance he may have caused or placed in the vicinity of the

dwelling he occupies or any other dwelling, or shall commit any nuisance in any stream or thoroughfare, shall on conviction pay a fine not exceeding Three Dollars, or be imprisoned at hard labor for any term not exceeding Thirty Days.

SECTION 6. This Act shall take effect ninety days after its passage.

## SYNOPSIS

OF RULINGS AND DECISIONS OF THE SUPREME COURT RELATING TO THE LABOR LAWS.

THE KING *vs.* GREENWELL,—1st Haw. Rep. p. 85;

The whipping of servants or laborers is not justifiable under the laws of this Kingdom.

A master may correct his apprentice with due moderation.

IN RE CHRISTOPHER H. LEWERS, PAKALO CHOW AND CHAS. C. HARRIS, Minister of Finance,—3rd Haw. Rep. p. 21;

“Persons coming here from China under Contracts for Labor made there,” are personally subject to the taxes of this Kingdom.

JOHN H. WOOD *vs.* HOOKINA,—3rd Haw. Rep. p. 102;

In a complainant under the Masters and Servants Law, the Masters Books may go in evidence.

Wages must be paid during the *penal service*, and for failure to pay them, the Contract is broken on the part of the master, and his complaint is dismissed.

The lapse of time is no bar to penal enforcement of a Contract of Labor.

JOHN H WOOD *vs.* AFO, ALIAS CHEONG YAN SANG,—3rd Haw. Rep. p. 448;

Lapse of time is not a bar to the penal enforcement of a

Labor Contract, if it result from the servant's own act.  
(Hartwell J., dissenting.)

A. UNNA *vs.* KEALAU, —3rd Haw. Rep. p. 690;

The true construction of Section 1 of the Act of 13th June, 1868, entitled "An Act to regulate Contracts between Masters and Servants" is, that each version of the contract, Hawaiian and English must be signed by both parties.

The law does not require, in order to validity of the contract, that the servant be furnished with a copy.

THE OWNERS OF THE WAIHEE PLANTATION *vs.* KALAPU, —3rd Haw. Rep. p. 760;

A Labor Contract cannot be enforced against the servant by and in the name of the *Owners* of a plantation, they being all different parties from the *Owners* with whom the servant contracted.

H. J. COOLIDGE *vs.* PUAAIKI AND KEA, appeal to the Supreme Court in Banco, —3rd Haw. Rep. p. 810;

A Labor Contract executed on the part of the master by his wife, who was left as a manager of the plantation in his absence from the Kingdom, although without his authority in writing, binds both parties.

The Agent to take acknowledgment having received his appointment in anticipation of the date when the acknowledgment statute took effect, his acts thereafter are valid.

It will not invalidate a Labor Contract that it is not precise in terms as to the kind of labor to be performed and limited as to place.

It is erroneous to bring cases under Labor Contracts as crown prosecutions.

KAALAE PLANTATION *vs.* BOLABOLA AND 12 OTHERS AND WAILUKU SUGAR Co *vs.* PAIA AND JIM BOMBAY,—3rd Haw. Rep. p. 818;

*Rulings on Masters and Servants Labor Contracts :*

An acknowledgment of contract made prior to the Act of 1876, is good if taken by any officer then authorized to take acknowledgment of deeds.

The *Copy* which may be furnished the servant is only required to be a literal transcript of the original including its signatures, and is to be certified by the acknowledging officer without charge and stamped at the expense of the master.

Contracts executed prior to the Stamp Act of 1876 need not be stamped now.

Contracts need not be made in a form prescribed by the Minister of the Interior.

J. NOTT ET AL. *vs.* KANAHELE,—4th Haw. Rep. p. —

When the laborer has executed a contract binding himself to labor for the plaintiffs, and in case of the transfer of their plantation to work for the person to whom such plantation shall be conveyed, he will be held thereby.

